

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

LIBOR-Based Financial Instruments
Antitrust Litigation.

ORDER

11 MD 2262 (NRB)

This Document Applies to:

Federal Home Loan Mortgage Corp. 13 Civ. 3952
v. Bank of America Corp., et al.

Principal Funds, Inc., et al. 13 Civ. 6013
v. Bank of America Corp., et al.

Principal Financial Group, Inc., et al. 13 Civ. 6014
v. Bank of America Corp., et al.

Federal Deposit Insurance Corp. 14 Civ. 1757
v. Bank of America Corp., et al.

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NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

This order addresses the March 27, 2018 letter filed by the Federal Home Loan Mortgage Corporation, the Federal Deposit Insurance Corporation in its capacity as receiver for 38 closed banks, and the Principal plaintiffs (collectively, "FFP plaintiffs"). See Letter from James R. Martin to the Court, Mar. 27, 2018, ECF No. 2471. FFP plaintiffs request leave to amend in light of the Second Circuit's decision in Charles Schwab Corp. v. Bank of America Corp., 883 F.3d 68 (2d Cir. 2018), and our order implementing the Second Circuit's directive on remand, see Letter from Steven E. Fineman endorsed by the Court, Mar. 19, 2018, ECF No. 2468, but do not actually submit a proposed amended complaint.


At this juncture in the litigation, the burden falls on the FFP plaintiffs to demonstrate why leave to amend is warranted, cf. Feb. 2, 2017 Order, ECF No. 1760 (identifying certain FFP plaintiffs' failure to comply with this Court's orders and striking a proposed amended complaint), and the scope of any amendment shall be limited to those prompted by the Second Circuit's decision in Schwab. The issuance of intervening authority offers no occasion to add or alter unrelated allegations that a plaintiff wishes had been better pleaded in the first instance. Cf. LIBOR VII, 2018 WL 1229761, at *56 n.85 (S.D.N.Y. Feb. 28, 2018) (expressing skepticism regarding belated amendments beyond the scope of leave to amend granted by the Court).

Accordingly, FFP plaintiffs must formally move for leave to amend. Any such motion shall include the proposed amended complaints that FFP plaintiffs seek to file and redlines of those complaints against the currently operative complaints. Given the anticipated overlap between issues raised by any such motion for leave to amend and those raised by the motions to dismiss contemplated in the Court's March 19, 2018 order, ECF No. 2468, the parties are directed to propose a briefing schedule under which FFP plaintiffs' motion is filed no later than May 15, 2018 and any oppositions and replies are filed on a

schedule paralleling the corresponding papers addressing any motions to dismiss the Schwab plaintiffs' amended complaints.

SO ORDERED.

Dated: New York, New York
April 11, 2018



NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE